

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSE GUADALUPE LLAGAS BOLANOS,

Plaintiff,

v.

LUTHERAN MEDICAL CENTER PHYSICIAN
HOSPITAL ORGANIZATION, INC., LUTHERAN
MEDICAL CENTER COMMUNITY
FOUNDATION, INC., THOMAS LARKIN, M.D.,
OLEG MELNYK, SHARIQUE NAZIR, M.D.,
RABIH NEMR M.D., IRENA W. RYNCARZ,
NAZIR TRAUMA M.D., UNITED STATES OF
AMERICA, KIRILL ZAKHAROV, M.D.,
CHRISTOPHER ZAMBRANO, M.D., PIERSON
EBROM, EMANUAL HOQUE, MIROSLAV
KOPP,

Defendants.

**STIPULATION AND ORDER
OF DISMISSAL WITH
PREJUDICE**

Civil Action No. 18-CV-1818

(Dearie, J.)
(Gold, M.J.)

WHEREAS, Plaintiff commenced this action on May 5, 2017 by filing a Complaint in the Supreme Court of the State of New York, County of Kings, under Index No. 508991/17, asserting, *inter alia*, claims of negligence in the medical care and treatment allegedly rendered to Plaintiff and naming as defendants Lutheran Medical Center Physician Hospital Organization, Inc., Lutheran Medical Center Community Foundation, Inc., Thomas Larkin, M.D., Oleg Melnyk, Sharique Nazir, M.D., Rabih Nemr, M.D., Irena W. Ryncraz, Nazir Trauma, M.D., Dana Vered, Kirill Zakharov, M.D., Christopher Zambrano, M.D., Pierson Ebrom, D.O., Emanuel Hoque, P.A., and Miroslav Kopp;

WHEREAS, the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346, 2401, 2671 *et seq.*, and the Federally Supported Health Centers Assistance Act, 42 U.S.C. 233(c)-(n), allows for the United States of America to substitute itself as party defendant when a federally-deemed employee was acting within the scope of employment at the time the alleged acts or omissions

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took place, 42 U.S.C. § 233(c);

WHEREAS, at all relevant times articulated in the Complaint, defendant Dana Vered was a deemed employee of the United States, and acting within the course and scope of her federal employment;

WHEREAS, on March 26, 2018, the United States of America duly filed a certification and notice of substitution attesting to Dana Vered's status as a deemed employee of the United States at the time of the events alleged in the Complaint, and that in consequence, the United States of America was substituted as the proper party-defendant in place of this defendant;

WHEREAS, on March 26, 2018, the United States of America removed this action to the United States District Court for the Eastern District of New York, on the ground that Dana Vered was acting within the course and scope of her federal employment at the time of the events alleged in the Complaint;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties to the above-captioned action, by and through their undersigned attorneys, and it is ordered by the Court that:

1. The foregoing recitals are hereby incorporated by reference and adopted by the parties as if fully set forth herein;
2. The United States of America has been substituted as the party-defendant in place of defendant Dana Vered;
3. Plaintiff's complaint against Defendants and all claims therein be and hereby are dismissed, with prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), without costs or fees to any party as against any other;

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4. No further suit, whether in federal or state court, will be instituted for the same causes of action which have been asserted herein, or for any other causes of action that arise out of the medical care and treatment rendered to Plaintiff at Lutheran Medical Center;

5. This Stipulation and Order may be executed in separate counterparts, each of which shall be deemed to be an original;

6. Once this Stipulation and Order has been signed and so ordered by the Court, the Clerk of the Court shall enter judgment in this case dismissing the action with prejudice and shall close the case.

Dated: New York, New York
April 23, 2018

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Dated: Brooklyn, New York
April 18, 2018

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Dated: New York, New York
April 23, 2018

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Kirill Zakharov, M.D., Pierson Ebrom, D.O.,
Emanuel Hoque, P.A., Miroslav Kopp and
**Non-appearing defendant Christopher Zambrano,*
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Dated: New York, New York
April 23, 2018

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Dated: Staten Island, New York
April 23, 2018

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Dated: Roslyn, New York
April 23, 2018

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SO ORDERED this
____ day of _____, 2018

Honorable Raymond J. Dearie
District Judge, E.D.N.Y.